

# **FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FEDERAL INSURANCE MITIGATION ADMINISTRATION (FIMA) APPEAL DECISION**

*FEMA Flood Insurance Appeal Decision #C8*

## **OVERVIEW**

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The policyholder filed an appeal on July 2019, alleging his flood insurance carrier (hereinafter “insurer”) improperly denied part of his claim under the Standard Flood Insurance Policy (SFIP)<sup>1</sup> for damages to covered property arising from a flood event dated March 2019.<sup>2</sup>

In its review, FEMA found the following facts relevant:

- At the time of loss, the policyholder had \$145,000 of building coverage.
- The insured property is a two floor, pre-FIRM (Flood Insurance Rate Map) building constructed on block piers.
- The policyholder filed a claim with the insurer and the insurer assigned an adjuster to inspect the property.
- The adjuster inspected the property on March 2019, and measured waterlines of 59 inches to the exterior of the building and one inch in the interior of the building.
- The adjuster prepared an estimate for damages to the siding, trim, wall sheathing, insulation, subfloor, and finished floors. The adjuster forwarded the estimate to the insurer for review.
- The insurer reviewed the adjuster’s estimate and issued the policyholder payment totaling \$9,876.71 for building damage.
- The adjuster requested the insurer retain an engineer to inspect the property for possible foundation damage.
- The insurer retained an engineer to inspect the property. On April 2019, an engineer inspected the property and attributed the minor variance in the interior floor elevation to long-term, differential foundation movement and not to the subject flood event. The engineer noted although the concrete slab was heavily damaged from the flood event, the slab-on-grade was not connected to the piers and was not a structural element of the foundation.<sup>3</sup>
- In a letter dated May 2019, the insurer partially denied coverage for foundation damage because the slab-on-grade was not connected to the piers and was not a structural element of the foundation.
- The policyholder appeals the insurer’s denial and requests coverage for foundation damage, gravel, and well damages.

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<sup>1</sup> See 44 C.F.R. § 61.13 (2018); Dwelling Form available at 44 C.F.R. pt. 61 App. A(1) [hereinafter “SFIP”].

<sup>2</sup> The policyholder files this appeal under 44 C.F.R. § 62.20. The appeals process is available after the insurer issues a written denial, in whole or in part, of the policyholder’s claim. The policyholder’s appeal and related documents concerning the appeal, claim, or policy are on file with FEMA, Federal Insurance and Mitigation Administration, Federal Insurance Directorate, Policyholder Services Division, Appeals Branch [hereinafter “Appeal File”].

<sup>3</sup> See Appeal File, Engineer’s Report (May 2019).

- In support of his appeal, the policyholder includes a bill for well damage and replacement of gravel.

## RULES

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The insurer agrees to pay the policyholder for direct physical loss by or from flood to insured property, provided the policyholder complies with all terms and conditions of the SFIP.<sup>4</sup>

The SFIP does not cover those portions of walks, walkways, decks, driveways, patios, and other surfaces, all whether protected by a roof or not, located outside the perimeter, exterior walls of the insured building or the building in which the insured unit is located.<sup>5</sup>

The SFIP does not cover underground structures and equipment, including wells.<sup>6</sup>

The SFIP does not insure loss to property caused directly by earth movement, even if earth movement is caused by flood. Examples of earth movement include land subsidence, sinkholes, destabilization or movement of land due to water accumulation, and gradual erosion.<sup>7</sup>

## ANALYSIS

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On appeal, the policyholder requests coverage for foundation damage, gravel, and well damages.

The insurer agrees to pay the policyholder for direct physical loss by or from flood to insured property. The SFIP does not insure loss to property caused directly by earth movement, even if earth movement is caused by flood. Examples of earth movement include land subsidence, sinkholes, destabilization or movement of land due to water accumulation, and gradual erosion.

Here, the engineer attributed the minor variance in the interior floor elevation to long-term, differential foundation movement and not to this flood event. The engineer determined the slab-on-grade was not connected to the piers and not a structural element of the foundation.

FEMA's review finds the bulletin referenced in the policyholder's denial letter applies to slabs beneath a post-FIRM building.<sup>8</sup> Here, the policyholder's building is pre-FIRM. The SFIP does not limit coverage to the area below the lowest elevated floor of a pre-FIRM elevated building. Accordingly, FEMA overturns the insurer's decision to deny slab damage because the building is pre-FIRM and is not subject to post-FIRM coverage limitations.

The SFIP does not cover those portions of walks, walkways, decks, driveways, patios, and other surfaces, all whether protected by a roof or not, located outside the perimeter, exterior walls of the insured building. The SFIP does not cover underground structures and equipment, including wells. Here, the policyholder seeks coverage for gravel and well damage. However, the SFIP does not cover damage to gravel and

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<sup>4</sup> See SFIP (I), (II)(B)(12).

<sup>5</sup> See SFIP (IV)(9).

<sup>6</sup> See SFIP (IV)(8).

<sup>7</sup> See SFIP (V)(C).

<sup>8</sup> See Appeal File, Denial Letter (May 2019).

wells. FEMA's review notes the insurer did not deny coverage for gravel or well damage. However, the insurer included the rule covering said damage in their denial letter. Accordingly, FEMA's review finds the policyholder's gravel and well damage are not covered under the SFIP.

## **CONCLUSION**

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Based on the facts and analysis above, FEMA overturns the insurer's decision to deny the slab damage under the building because the building is a pre-FIRM and is not subject to post-FIRM coverage limitations.

The insurer should cover the removal and replacement of the non-structural slab as prescribed in the engineer's report. The insurer should also cover the cost for fill to support the non-structural concrete slab under the building.

FEMA's concurs gravel and well damage are not covered under the SFIP.